



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of:

**Mike Xiaoli MA**

Application No. **09/955,844**

Filed: **September 18, 2001**

For: **TAMPER EVIDENCING CLOSURE**

Art Unit: **3727**

Examiner: **Stephen K. Cronin**

Docket No.: **A-64345-4/RBC/VEJ**

*Certificate of Mail (37 C.F.R. § 1.8(a))*

*I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal service on the date shown below with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 9, 2004.*

Patricia A. Diehl

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER**

Sir:

The undersigned is an attorney of record in the above-identified application.

Portola Packaging, Inc., a Delaware corporation having offices at 890 Faulstich Court, San Jose, California 95112, is the owner of the entire right, title and interest in (1) the above-identified application as evidenced by an Assignment recorded in the U.S. Patent and Trademark Office on January 17, 2002 at Reel/Frame 012498/0859, (2) U.S. Patent No. 6,484,896 issued November 26, 2002 and entitled *TAMPER EVIDENCING CLOSURE* ("the '896 patent"), (3) U.S. Patent No. 6,112,923 issued September 5, 2000 and entitled *TAMPER EVIDENT BOTTLE CAP* ("the '923 patent"), and (4) U.S. Patent No. 5,913,437 issued June 22, 1999 and entitled *TAMPER EVIDENT BOTTLE CAP* ("the '437 patent").

Portola Packaging, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of the prior '896, '923, and '437 patents.

Portola Packaging, Inc. hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Portola Packaging, Inc. does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior '896, '923, and '437 patents, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extension of time or additional claims, and/or credit any overpayment to Deposit Account No. 50-2319 (Order No. 463678-00065; Docket No. A-64345-4/RBC/VEJ).

Respectfully submitted,

Date: 2/9/2004

By: 

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Filed Under 37 C.F.R. § 1.34(a)

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